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PROGRESSIVE CONSUMPTION TAX ACT OF 2016

ADDITIONAL INPUT

All comments on the Progressive Consumption Tax Act (PCTA) are welcome. Insights and concerns raised by stakeholders over the past Congress—from both individuals and businesses—have been very helpful and appreciated. Further input and discussion are crucial, especially as Congress considers moving forward with comprehensive tax reform. In addition to general comments on the Act, we are interested in feedback on the issues outlined in this document.

If you have any suggestions on the Progressive Consumption Tax Act, or more questions, please email PCT@cardin.senate.gov.

Transition and state and local harmonization

We are continuing to examine several high-level, structural open issues. The biggest of these issues relate to a transition from our current system to the proposed PCTA system. Specific transition issues include: the PCTA's effective date (set now at January 1, 2018); how transactions spanning the effective date should be treated; issues related to large consumer durable goods like motor vehicles and housing; and making the transition fairer for older taxpayers.

Another significant issue is how the PCT as proposed will interact with state and local sales taxes. Resolving this important issue will require discussion with state governments. While Canada's Harmonized Sales Tax (HST) can act as a model, we recognize that the U.S. system poses unique considerations and challenges. Aside from sales tax issues, many states base their income tax systems on the federal system. As with any federal income tax overhaul, this interaction must be carefully considered.

Any comments, concerns, and potential solutions regarding these two critically important issues are welcome.

Financial services issues

The updated PCTA contains several refinements related to the treatment of financial products and services. However, given the complexities that arise when taxing financial products and services under a consumption tax system, more input is needed.

Issues related to the reduced credit system

The PCTA provides a partial credit, similar to Australia's reduced input tax credit system, for PCT paid on certain goods and services purchased by businesses to provide financial supplies. This system is meant to counteract "self-supply" bias, discussed in more detail in our Financial Products and Services Fact Sheet.

The list of goods and services included in the legislation represent a summary of those that were identified as particularly susceptible to self-supply under the Australian regime. Input on whether to add to, delete from, or refine this list would be helpful. Moreover, the Australian regime provides quite a bit of regulatory authority to adjust the rate of the reduced credit and what type of goods and services qualify. Input on the flexibility needed in this regard would also be appreciated.

In addition, the system provided for in this version of the PCTA is not the only way to address self-supply bias. For instance, instead of providing a partial credit only with respect to the purchase of goods and services that are easy to move in-house, all purchases related to exempt financial supplies could be subject to a lower partial credit.

Another alternative is utilized in New Zealand, which allows, on an elective basis, zero-rating of financial supplies to taxable customers. Electing companies can zero rate (claim full input tax credits, but charge no consumption tax) to customers, but only if those customers are taxable businesses (defined as customers having themselves 75% taxable sales).

Feedback regarding the partial credit system in the updated PCTA and these other options is welcome as we further refine the draft going forward.

Ancillary financial supplies

As noted in our Financial Products and Services Fact Sheet, sometimes, businesses provide financial services to their customers, but providing financial services is not their main business. For example, a repair shop might extend lines of credit to certain customers, though its main business is providing repair services.

To lower the administrative burden for these businesses, which would otherwise have to separately account for their exempt financial supplies (and the purchases relating to those supplies), the PCTA provides that businesses that do not reach a certain threshold with respect to financial supplies and financial supply purchases are entitled to a full credit for all of their purchases. This threshold would, however, require businesses that provide ancillary financial supplies to do some separate tracking to ensure that they do not exceed the threshold.

Comments or suggestions are welcome on these or other proposals for businesses that supply an ancillary amount of financial supplies compared to their total business activity. We are particularly interested in comments regarding the level of the threshold and views on the administrative challenges the threshold poses along with potential solutions to those challenges.

Select administration issues

Aside from transition issues, more input is needed regarding the administration and implementation of the PCT, the rebate provided to maintain progressivity, and the circuit breaker rebate. Comments on all of these issues are welcome. Specific items include:

Reporting periods. The PCT provides several rules for reporting liability and claiming credits. Comments on the timing of filings for both large and small businesses, the information provided on invoices, and other reporting items would be helpful. Sharing experiences with and best practices of state sales tax systems, which can contain similar requirements, would also be helpful.

Registration system. To ensure the efficient implementation of the PCT, including the remittance of tax and the claiming of credits by taxable businesses, more input is needed on best practices regarding a PCT registration system. Any experiences internationally or with state and local sales tax registrations would be particularly helpful.

Apportionment and bundling. One of the goals of the PCT is to correctly measure the tax liability and credits related to taxable, zero-rate, and exempt items, but still keep administrative costs as low as possible. Suggestions regarding apportionment rules, rules regarding the bundling of transactions, and rules on incidental supplies are welcome.

Progressive rebate administration. Currently, the rebate provided to offset the burden of the PCT for low- and middle-income families is meant to be issued before purchases are made, in order to prevent rebate-receivers from paying PCT out-of-pocket. To avoid any complications related to "clawing back" rebates, the rebate will be issued based on prior year informationAny suggestions regarding the timing of the rebate, its calculation, the information required, and its distribution are welcome.

Transactions with non-resident businesses. Input on best practices regarding cross-border transactions between non-resident businesses and U.S. businesses would also be appreciated. The PCT is meant to encompass a broad range of goods and services that are used or consumed in the U.S. However, we understand that administrative and other challenges can arise with respect to transactions involving non-resident businesses and supplies like intangibles, including digital products and services.